
No. 07-20539

CYBERONICS, INC

Plaintiff - Appellee

v.

WELLS FARGO BANK NATIONAL ASSOCIATION,
as Trustee Under Indenture

Defendant - Appellant

ENTRY OF DISMISSAL

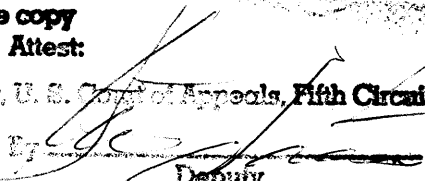
Pursuant to the joint motion of the parties this appeal is
dismissed this 21st day of April, 2008, see FED. R. APP. P.
42(b).

CHARLES R. FULBRUGE III
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: 
Steve Tatora, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

DIS-4

A true copy
Attest:
Clerk, U. S. Court of Appeals, Fifth Circuit
By: 
Deputy
New Orleans, Louisiana
APR 21 2008

U.S. COURT OF APPEALS
FILED

APR 21 2008

CHARLES R. FULBRUGE III
CLERK

No. 07-20539

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

CYBERONICS, INC
Plaintiff - Appellee

v.

WELLS FARGO BANK NATIONAL ASSOCIATION,
as Trustee Under Indenture
Defendant - Appellant

On Appeal from the United States District Court
for the Southern District of Texas
Houston Division

JOINT MOTION TO DISMISS APPEAL WITH PREJUDICE

TO THE HONORABLE UNITED STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT:

Pursuant to Fed. R. App. P. 42(b), Appellant Wells Fargo Bank, National Association, as Trustee Under Indenture, ("Wells Fargo") and Appellee Cyberonics, Inc. ("Cyberonics") file this Joint Motion to Dismiss Appeal with

Prejudice in light of settlement reached by the parties. The parties would respectfully show this Court as follows:

1. Appellant Wells Fargo filed this notice of appeal on July 26, 2007. The appeal is docketed in this Court under docket number 07-20539.
2. The parties timely filed briefs with this Court and notices of supplemental authority. The case is set for oral argument on April 28, 2008.
4. The parties have agreed to and settled all disputes involved in this litigation.
5. In light of this settlement, the parties jointly move the Court to dismiss this appeal, with costs to be taxed against the party incurring same pursuant to Fed. R. App. P. 39(a).

WHEREFORE, PREMISES CONSIDERED, Appellant and Appellee pray that this Court dismiss the appeal styled Wells Fargo Bank National Association v. Cyberonics, Inc., docket number 07-20539, and order all costs to be borne by the party incurring those costs. Appellant and Appellee also pray that this Court grant such other and further relief to which the parties may be justly entitled.

Respectfully submitted,

/s Jeffrey I. Ross

ANTHONY, OSTLUND & BAER, P.A.

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United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

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NEW ORLEANS, LA 70130

April 21, 2008

Mr Michael N Milby, Clerk
Southern District of Texas, Houston
United States District Court
Room 1217
515 Rusk Street
Houston, TX 77002

No. 07-20539 Cyberonics Inc v. Wells Fargo Bank NA
USDC No. 4:07-CV-121

Enclosed is a certified copy of the judgment issued as the
mandate.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: 
Steve Totor, Deputy Clerk
504-310-7667

Mr Thomas Hal Cook
Mr Jeff I Ross
Mr N Scott Fletcher

MDT-1